



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,786	11/17/2003	W. Michael Bissonnette	03-02	2438

7590 10/25/2004

Laura L Conley
900 28th Street
Suite #201
Boulder, CO 80303

EXAMINER

VALENTI, ANDREA M

ART UNIT PAPER NUMBER

3643

DATE MAILED: 10/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/714,786	Applicant(s) BISSONNETTE ET AL. <i>ST</i>	
	Examiner Andrea M. Valenti	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of claims 1-19 in the reply filed on 17 august 2004 is acknowledged.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 9-12, 14, 18, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by United Kingdom Patent GB 2216378 A to Nash et al.

Regarding Claims 1 and 14, Nash et al teaches a seed-support medium comprising: a seed-bearing (Nash Fig. 2 #21) substrate (Nash page 31 line 7-8) superposed upon a hydrophilic cellular substrate (Nash Fig. 2 #18) contained within a porous, cup-shaped, rigid modular receptacle (Nash Fig. 2 #12 and page 19 line 11-12).

Regarding Claims 5, 9 and 18, Nash et al teaches the seed-bearing substrate further comprises adjuvants (Nash page 8 line 25).

Regarding Claims 10 and 19, Nash et al teaches a seal (Nash page 8 line 17).

Regarding Claims 11-12, Nash teaches the seal is inherently opaque, transparent, translucent depending on desired germination rate (Nash page 12 line 20-26 and page 13 line 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4, 6-8, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over United Kingdom Patent GB 2216378 A to Nash et al in view of U.S. Patent No. 6,615,539 to Obonai et al.

Regarding Claims 6-8 and 15-17, Nash teaches perlite particles or a substrate paste, gel, or liquid and that other substrates can be substituted (Nash page 7 lines 15-16 and 23), but is silent on explicitly teaching the hydrophilic cellular substrate is a synthetic polymer; a sponge; or rock wool. However, Obonai teaches that there are many alternate equivalent hydrophilic cellular substrates including rock wool, sponge, and synthetic polymers (Obonai Col. 15 line 67 and Col. 16 line 4-27). It would have been obvious to modify the teachings of Nash with the teachings of Obonai at the time of the invention since the modification is merely an engineering design choice involving the selection of an alternate plant substrate to obtain a desired degree of water retaining capacity, water conveying capacity, ion exchange properties etc for different seed varieties.

Regarding Claims 2-4, Nash teaches multiple layers of plant substrate (Nash page 31 line 7-8) and thus inherently teaches a seed-bearing substrate, but as discussed in the preceding claims 6-8 and 15-17 Nash does not explicitly teach that the

Art Unit: 3643

substrate is a hydrophilic fiber, a plant starch, an adhesive. However, Nash as modified by Obanai teaches that there are many alternate equivalent substrates including hydrophilic fiber, a plant starch, adhesive (Obanai Col. 15 line 64-67 and Col. 16 line 1-29).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

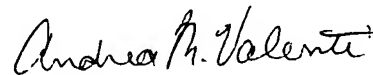
U.S. Patent No. 5,799,439; French Patent FR 2615687; Japanese Patent JP 05227835; PCT WO 94/06274; U.S. Patent Pub. No. US 2004/0049980; U.S. Patent No. Re. 32,476; U.S. Patent No. 3,973,355; U.S. Patent No. 4,175,355; U.S. Patent No. 4,420,903; U.S. Patent No. 5,347,753; U.S. Patent No. 5,927,006; U.S. Patent No. 5,732,505; U.S. Patent No. 3,608,238; Japanese Patent JP 06133646; German Patent DE 3917463; U.S. Patent Pub. No. US 2003/0000140.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

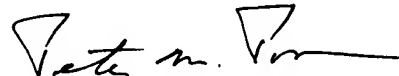
Art Unit: 3643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrea M. Valenti
Patent Examiner
Art Unit 3643

18 October 2004



Peter M. Poon
Supervisory Patent Examiner
Technology Center 3600